

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY MARTLE	:	
5833 North 15th Street	:	
Philadelphia, PA 19141	:	
and	:	
DION KENDELL BROWN	:	Civil Action No.
2000 W. Godfrey Avenue, Apt.A	:	
Philadelphia, PA 19138	:	
Plaintiffs,	:	(PCCP July Term, 2002)
	:	(No. 000641)
v.	:	
	:	
DARIUS ARCHIBALD	:	
2122 Magee Avenue	:	
Philadelphia, PA 19149	:	
and	:	
NICHOLAS KEMPF, SR.	:	
1000 W. Valley Road	:	
Southeastern PA 19399	:	
and	:	
UNITED STATES POSTAL SERVICE	:	
30th Street & Market Street	:	
Philadelphia, PA 19104	:	
Defendants,	:	
	:	

NOTICE OF REMOVAL OF CIVIL ACTION FROM
STATE COURT TO THE UNITED STATES DISTRICT COURT

Pursuant to 28 U.S.C. 2679(d), the United States of America removes this action to the Federal District Court for the Eastern District of Pennsylvania. In support thereof, the United States of America avers the following:

1. Plaintiff, Anthony Martle in his own right and Plaintiff, Dion Kendell Brown, in his own right, filed a Civil Action Complaint 2V-Motor Vehicle Accident in the Philadelphia

County Court of Common Pleas on July 3, 2002.

See Copy of Civil Action Complaint attached hereto as Exhibit "A".

2. This action may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1442 because it appears to be an action against an employee of the United States for action taken under his office and in the performance of his duties.

3. At the time of the alleged incident defendant Nicholas Kempf, Sr. was an employee of the United States Postal Service, which is an agency of the United States. Mr. Kempf was acting within the scope of his employment at the time of this incident.

4. This action arises from an accident which occurred on or about September 26, 2001.

5. In this Complaint, plaintiffs allege that defendant, Nicholas Kempf, Sr. operated a U.S. government truck which was involved in a collision pursuant to official business. Accordingly, pursuant to the provisions of the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq., the entire action may be removed to this Court at any time prior to trial.

6. A copy of this Notice is being filed with the Prothonotary of the Court of Common Pleas for Philadelphia County, Pennsylvania, and is being sent to all adverse parties pursuant to 28 U.S.C. § 1446(d).

7. No bond is required to accompany this Notice as it is filed on behalf of the United States.

8. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney

JAMES G. SHEEHAN
Assistant United States Attorney
Chief, Civil Division

NURIYE C. UYGUR
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Filing of Removal and Notice of Removal have been served by first class mail, postage prepaid, upon the following:

SAMUEL FISHMAN, ESQUIRE
1422 Chestnut Street
Suite 701
Philadelphia, PA 19102

NURIYE C. UYGUR
Assistant United States Attorney

DATED: July 24, 2002